



C.R.P(MD)No.2434 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.01.2025
DELIVERED ON : 31.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.2434 of 2022
and
C.M.P(MD)Nos.11770 of 2022 & 17313 of 2024

Kaliyaperumal

... Petitioner

Vs.

1.Karuppaiah

2.Balakrishnan

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.161 of 2022 in O.S.No.26 of 2010 on the file of the Principal Sub Court, Pudukkottai, dated 26.08.2022 and consequently allow this Civil Revision Petition.

For Petitioner : Mr.R.Paranjothi

For Respondents : No appearance



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C.R.P(MD)No.2434 of 2022

ORDER

The unsuccessful petitioner / plaintiff filed this revision under Article 227 of the Constitution of India, assailing the order, dated 26.08.2022 on the file of the Principal Sub Court, Pudukottai in O.S.No.26 of 2010 filed by the petitioner / plaintiff under Order VI, Rule 17 of the Code of Civil Procedure, 1908, requesting to permit to amend the plaint schedule by mentioning S.Nos.90/5, 90/6 and 90/7 in the place of S.No.90/1.

2. I have heard the submissions of Mr.R.Paranjothi, learned Counsel for the revision petitioner / plaintiff.

3. Despite notice, the respondents neither appeared in person nor through their Counsel.

4. I have also perused the materials available on record.

5. The case of the plaintiff in support of the request for amendment of the schedule of the plaint in brief is this:

2/7



C.R.P(MD)No.2434 of 2022

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The plaintiff filed the suit against the defendants to grant a decree in favour of the plaintiff for specific performance of an agreement of sale, dated 29.06.2009 and to direct the defendants to execute a registered sale deed in favour of the plaintiff in respect of schedule property and requesting the Court to execute the sale deed in the event of the defendants failure to execute the sale deed. Thereafter, the plaintiff found that a mistake has crept in while mentioning the survey number in the plaint schedule. The survey number was mentioned as 90/1 in the plaint schedule instead of S.Nos.90/5, 90/6 and 90/7. Hence, the contention of the plaintiff is that when the above mistake was noticed, he was constrained to file the above application for amending the survey numbers in the schedule of property. The above application was resisted on the side of the respondents stating that the alleged sale agreement is a forged document and therefore, the petition is liable to be dismissed. However, the Trial Court dismissed the said application by stating that only at the time of trial, the correct survey numbers can be ascertained. Aggrieved by this, the present revision is preferred.



C.R.P(MD)No.2434 of 2022

6. I have given detailed and thoughtful consideration to the facts and the submission made by the learned Counsel for the petitioner. I have perused the plaint as well as the written statement.

7. Now it has to be considered that whether the amendment sought is imperative for proper and effective adjudication of the case. Order VI, Rule 17 of CPC., confers jurisdiction on the Court to allow either party to alter or amend his pleadings at any stage of the proceedings and on such terms as may be just. Such amendments as are directed towards putting forth and seeking determination of the real questions in controversy between the parties shall be permitted to be made. Order VI, Rule 17 of CPC also confers vide power and unfettered discretion to the Court to allow an amendment at any stage of the proceedings.

8. Therefore, this Court is of the considered view that it would be a sound exercise of discretion to permit the amendment of the survey numbers in the plaint schedule cannot be refused. Since the dominant purpose of the rule is to minimise the litigation and to enable the parties to have all the issues relating to one dispute resolved in one suit, the amendment sought for



C.R.P(MD)No.2434 of 2022

by the plaintiff can be allowed which helps in setting at rest, the dispute between the parties once and for all. Further, if granting of amendment really subserves the ultimate cause of justice and avoids further litigation, the same should be allowed and the Court has to consider whether the proposed amendment is intended to determine the real dispute between the parties and that no right accrued to the defendants would get defeated, if the proposed amendment is allowed as the defendants are from the beginning denying the plaintiffs entitlement to the reliefs claimed in the suit.

9. On the aforesaid analysis of the contentions of the revision petitioner and the case facts, this Court finds that there is acceptable merit in the contention of the revision petitioner / plaintiff and there are no impediments for allowing the amendment. Moreover, the nature of the case will not be changed by the said amendment. For the foregoing reasons, this Court finds that the order of the Court below can be set aside and the application for amendment can be allowed.

10. In the result, this Civil Revision Petition stands allowed and the order impugned in I.A.No.161 of 2022 in O.S.No.26 of 2010 on the file of



C.R.P(MD)No.2434 of 2022

the Principal Sub Court, Pudukkottai is set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Principal Sub Court,
Pudukkottai.



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C.R.P(MD)No.2434 of 2022

K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
C.R.P(MD)No.2434 of 2022

31.01.2025